

REMARKS

The foregoing amendments and the following remarks are submitted in response to the communication dated February 13, 2007.

Claims 42-43, 73 and 91-93 are pending in the application. Claim 73 has been deemed allowable by the Examiner, as noted in the Office Action dated February 13, 2007. Claims 42, 43, 91, 92 and 93 have been amended in order to more particularly point out and distinctly claim that which Applicants regard as the invention. Support for the amended claims can be found generally through Applicants' Specification.

With respect to all amendments and canceled claims, Applicant has not dedicated or abandoned any unclaimed subject matter and, moreover, has not acquiesced to any rejections and/or objections made by the Patent Office. Applicant reserves the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

Claim Rejections - 35 USC § 112, Second Paragraph

Claims 42-43 and 91-93 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. These claims, the Examiner remarks, recite the limitation "a ... sequence of", and this language is deemed indefinite. The Examiner asserts that, for example, in claims 42 and 91, it is unclear whether the claims read on the full-length sequence of SEQ ID NO:7 and 9 or whether the scope of the claims is broader than that. Applicants respectfully disagree and submit that the claim language is clear, however, Applicants have above amended claims to clarify the language, referring to "comprising/comprises the ... sequence". Applicants assert that the language of all of claims 42-43 and 91-93, particularly as above amended, is clear and request that the Examiner's rejection under 35 U.S.C. 112, second paragraph, be properly withdrawn.

Claim Rejections - 35 USC § 112, First Paragraph

The Examiner has maintained his rejection of claims 42-43 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The Examiner maintains his

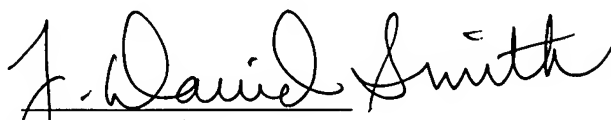
determination that in order for the skilled artisan to make the antibodies claimed in claims 42 and 43, the artisan must have access to the hybridoma that produces the antibodies. Applicants respectfully disagree. Claims 42 and 43 refer to and recite antibodies having a heavy chain comprising the heavy chain variable region sequence of SEQ ID NO:7 and a light chain comprising the light chain variable region sequence of SEQ ID NO:9, IgM monomers or Fab, Fab', F(ab')₂ and Fv fragments thereof. The claims are directed to antibodies or pharmaceutical compositions comprising particular and specific heavy and/or light chain sequences. It would clearly be possible for one of skill in the art to make the claimed antibody or composition in the absence of the hybridoma that produces it. The artisan could generate antibodies with the claimed characteristics by manipulating the given heavy and light chain variable region sequences, including for instance using art recognized methods of generating recombinant or hybrid antibodies. To the extent that the claim covers antibodies comprising the given heavy and light chain variable region sequences, along with the constant region and any other regions or sequence of the isolated sHlgM22 (Lym22) antibody, Applicants acknowledge that the availability of the hybridoma would be helpful to or more efficient for the artisan. Applicants are depositing the sHlgM22 (Lym22) hybridoma, under the terms of the Budapest Treaty, with the ATCC. Applicants will provide the verification of deposit and deposit number upon confirmation of viability and upon receipt of same by supplemental response.

In view of the foregoing remarks, Applicants submit that the Examiner's rejections under 35 U.S.C. 112, first paragraph, may properly be withdrawn.

CONCLUSION

Applicants respectfully request entry of the foregoing amendments and remarks in the file history of the instant Application. The Claims as amended are believed to be in condition for allowance, and reconsideration and withdrawal of all of the outstanding rejections is therefore believed in order. Early and favorable action on the claims is earnestly solicited.

Respectfully submitted,


J. David Smith
Attorney for Applicant(s)
Registration No. 39,839

KLAUBER & JACKSON, LLC.
411 Hackensack Avenue
Hackensack NJ 07601
Tel: (201) 487-5800